

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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**VINCENT J. SMITH** :

And :

**KALEY E. DAMORE** :

NO.

And :

**BAIL SHOP, LLC** :

Plaintiffs, :

v. :

**JAMES A. POLLOCK** :

Individually & in his Official Capacity as  
Detective in the Muhlenberg Township  
Police Department  
210 George Street  
Reading, PA 19605

**JURY TRIAL DEMANDED**

And :

**MUHLENBERG TOWNSHIP d/b/a  
MUHLENBERG TOWNSHIP POLICE  
DEPARTMENT** :

210 George Street  
Reading, PA 19605

And :

**JOHN ADAMS** :

Individually & in his Official Capacity as  
Berks County District Attorney  
633 Court St  
Reading, PA 19601

And :

**BERKS COUNTY d/b/a  
BERKS COUNTY DISTRICT  
ATTORNEY'S OFFICE** :

633 Court St

Reading, PA 19601 :  
: Defendants. :

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**CIVIL ACTION COMPLAINT**

**I. JURISDICTION & VENUE**

1. Jurisdiction in this Honorable Court is based on federal question conferred by 28 U.S.C. §1331; supplemental jurisdiction over state law claims is granted by 28 U.S.C. §1367.
2. Venue lies in this District as the events giving rise to this claim occurred here and at least one (1) Defendant does substantial business within this District.

**II. PARTIES**

3. Plaintiffs incorporate the foregoing paragraphs as if set forth at length herein.
4. Plaintiff, Vincent J. Smith, is an adult individual and citizen of the Commonwealth of Pennsylvania. Plaintiff, Vincent J. Smith, can be contacted through Plaintiffs' undersigned counsel. Plaintiff, Vincent J. Smith, is Plaintiff, Kaley E. Damore's father.
5. Plaintiff, Kaley E. Damore, is an adult individual and citizen of the Commonwealth of Pennsylvania. Plaintiff, Kaley E. Damore, can be contacted through Plaintiffs' undersigned counsel. Plaintiff, Kaley E. Damore, is Plaintiff, Vincent J. Smith's daughter.
6. Plaintiff, Bail Shop, LLC, is a limited liability company existing by virtue of and operating under the laws of the Commonwealth of Pennsylvania and is a citizen of the Commonwealth of Pennsylvania. Plaintiff, Bail Shop, LLC, can be contacted through Plaintiffs' undersigned counsel. At all material times, Plaintiff, Kaley E. Damore is the sole owner-operator of Plaintiff, Bail Shop, LLC.
7. Defendant, James A. Pollock, is an adult individual with a business office located at the above-captioned address. Defendant, Pollock is named herein in his individual capacity and

official capacity as Detective in the Muhlenberg Township Police Department under the color of state law. At all material times, Defendant, Pollock was acting under the color of state law.

8. Defendant, Muhlenberg Township doing business as Muhlenberg Township Police Department is a municipality existing by virtue of and operating under the laws of the Commonwealth of Pennsylvania, with its primary business office located at the above-captioned address.

9. Defendant, John Adams, is an adult individual with a business office located at the above-captioned address. Defendant, Adams is named herein in his individual capacity and official capacity as District Attorney of Berks County. At all material times, Defendant, Adams was acting under the color of state law.

10. Defendant, Berks County doing business as Berks County District Attorney's Office is a municipality existing by virtue of and operating under the laws of the Commonwealth of Pennsylvania, with its primary business office located at the above-captioned address.

### **III. OPERATIVE FACTS**

11. Plaintiffs incorporate the foregoing paragraphs as if set forth at length herein.

#### **BACKGROUND**

12. At all material times, Plaintiff, Damore owned and operated a bail-bond business in Lebanon, Pennsylvania, i.e. Plaintiff, Bail Shop, LLC.

13. At all material times, Plaintiff, Damore was appropriately licensed to operate Plaintiff, Bail Shop, LLC in the Commonwealth of Pennsylvania. *See Exhibit E.*

14. At all material times, Plaintiff, Bail Shop, LLC was appropriately licensed to operate as a bail-bond business in the Commonwealth of Pennsylvania. *See Exhibit F.*

15. At no time was Plaintiff, Damore's or Plaintiff, Bail Shop, LLC's licenses suspended or revoked.

16. At all material times, Plaintiff, Damore's father, Plaintiff, Smith was *not* involved in the operation or control of Plaintiff, Bail Shop, LLC.

17. At all material times, Plaintiffs, Damore and Bail Shop, LLC has a contract with Non-Party, Greg Giaffles to post bail in Berks County, which may be legally effectuated through one of Non-Party, Greg Giaffles' posting agents in Berks County.

#### **PRECIPITATING EVENTS**

18. On or about April 15, 2019, Non-Party, Dinora Vasquez appeared at the office of Plaintiff, Bail Shop, LLC in order to obtain a bail-bond for her son, Non-Party, Jesse Morales, specifically for \$150,000 related to a drug charge case (Berks County Docket No. CP-06-CR-0001706-2019). It was determined that Non-Party, Jesse Morales already had a bail-bond with Non-Party, Tom Carl Bail Bonds in the amount of \$25,000 on another criminal case (Berks County Docket No. CP-06-CR-0001635-2018).

19. Although Plaintiff, Bail Shop, LLC quoted a standard fee of five percent (5%), i.e. \$7,500, Non-Party, Dinora Vasquez could only afford \$5,000 as a deposit with additional payments thereafter. Further, Non-Party, Dinora Vasquez offered two additional co-signers; however, of the three signers, only one possessed gainful employment.

20. Under Pennsylvania Law, Plaintiff, Bail Shop, LLC required a standard fee of five percent (5%).

21. However, Plaintiff, Bail Shop, LLC explained that they would accept the \$5,000 payment as a deposit and attempt to get approval of the bail-bond from their insurance company. Plaintiff,

Bail Shop, LLC explained that it may take some time to obtain approval due to the limited employment of the signers and the limited cash being paid.

22. Over the course of the following week, Plaintiff, Bail Shop, LLC negotiated with its insurance company to obtain approval to issue the bail-bond. However, Plaintiff, Bail Shop, LLC's insurance company demanded additional money or other co-signors, which Non-Party, Dinora Vasquez could not provide.

23. During the foregoing interactions on or about April 15, 2019, Plaintiff, Smith was present in the office of Plaintiff, Bail Shop, LLC as Plaintiff, Smith was meeting his daughter, Plaintiff, Damore for dinner. However, at no time did Plaintiff, Smith say or act in any meaningful way to justifiably suggest that he operated, controlled, or was employed by Plaintiff, Bail Shop, LLC.

24. On or about April 24, 2019, pursuant to a motion by Non-Party, Tom Carl Bail Bonds to revoke the \$25,000 bail, the Court in the Non-Party, Jesse Morales' 2018 criminal case increased the bail to \$50,000.

25. During the last week of April 2019, Non-Party, Dinora Vasquez returned to the office of Plaintiff, Bail Shop, LLC, which confirmed that it was still in the process of obtaining the bail-bond due to (a) the now increased bail amount; (b) limited money paid; (c) lack of any additional collateral; and (d) limited employment of the signers. Plaintiff, Bail Shop, LLC offered a refund, but Non-Party, Dinora Vasquez refused, stating that she wanted her son out of jail. Plaintiff, Bail Shop, LLC explained that the process to obtain the approval was ongoing.

26. Finally, on or about May 1, 2019, Plaintiff, Bail Shop, LLC obtained approval to issue the bail-bonds, totaling \$200,000. As a result, Non-Party, Ethan Klein (a posting agent of Non-Party, Greg Giaffles) went to post the bonds at the Berks County Clerk of Courts. However, the

Clerk refused to allow the bonds to be posted as the clerk required clarification from the Court as to the correct amount of bail in one of the cases.

27. On the following morning, May 2, 2019, Non-Party, Ethan Klein successfully posted the bonds with the Berks County Clerk of Courts; the bail was posted prior to 11am.

#### **POLICE CRIMINAL COMPLAINTS & AFFIDAVITS OF PROBABLE CAUSE**

28. On or about May 2, 2019, Defendant, Pollock completed a Police Criminal Complaint and Affidavit of Probable Cause against Plaintiff, Damore, which Defendant, Pollock submitted to Magistrate District Judge Dean R. Patton. *See Exhibit C.*

29. Defendant, Pollock charged Plaintiff, Damore with the following criminal offenses:

- a. Theft by Deception (Felony 3) pursuant to 18 Pa.C.S. 3922(a)(1);
- b. Receiving Stolen Property (Felony 3) pursuant to PACC 3925(a); and,
- c. Deceptive or Fraudulent Business Practices (Felony 3) pursuant to PACC 4107(a)(2).

*See Exhibit C, Pages 3-4.*

30. On or about May 2, 2019, depending upon the Defendant, Pollock's averments in the Affidavit of Probable Cause, Magistrate District Judge Patton issued an Arrest Warrant for Plaintiff, Damore. *See Exhibit D.*

31. The crux of Defendant, Pollock's Affidavit of Probable Cause was that Defendant, Demore operated a bail-bond business and accepted the \$5,000 from Non-Party, Dinora Vasquez despite not being licensed to do so. *See Exhibit C.*

32. On or about May 2, 2019, Defendant, Pollock also completed a Police Criminal Complaint and Affidavit of Probable Cause against Plaintiff, Smith, which Defendant, Pollock submitted to Magistrate District Judge Dean R. Patton. *See Exhibit A.*

33. Defendant, Pollock charged Plaintiff, Smith with the following criminal offenses:

- a. Theft by Deception (Felony 3) pursuant to 18 Pa.C.S. 3922(a)(1);
- b. Receiving Stolen Property (Felony 3) pursuant to PACC 3925(a); and,
- c. Deceptive or Fraudulent Business Practices (Felony 3) pursuant to PACC 4107(a)(2).

*See Exhibit A, Pages 3-4.*

34. On or about May 2, 2019, depending upon the Defendant, Pollock's averments in the Affidavit of Probable Cause, Magistrate District Judge Patton issued an Arrest Warrant for Plaintiff, Smith. *See Exhibit B.*

35. The crux of Defendant, Pollock's Affidavit of Probable Cause was that Defendant, Smith was *present* when Plaintiff, Bail Shop, LLC accepted the \$5,000 from Non-Party, Dinora Vasquez despite Plaintiff, Bail Shop, LLC not being licensed to do so. *See Exhibit A.*

#### **ARREST & IMPRISONMENT OF PLAINTIFFS, SMITH & DAMORE**

36. On May 2, 2019, Plaintiffs, Smith & Damore, after learning that Arrest Warrants had been issued, turned themselves in at night court, at or about 6pm.

37. On the evening of May 2, 2019, the Court set bail for Plaintiffs, Smith & Damore. Although both Plaintiffs were able to make bail, only Plaintiff, Damore was released.

38. Plaintiff, Smith was held on a 72-hour detainer by Adult Probation and Parole as a result of the arrest being a violation of Plaintiff, Smith's probation. As a result, Plaintiff, Smith was held in Berks County Prison overnight.

39. At approximately 8pm on May 3, 2019, Plaintiff, Smith was released from the Berks County Prison at the direction, upon information and belief, of Muhlenberg Township Police Department employees and/or agents.

40. On or about May 8, 2019, the charges against Plaintiffs, Smith and Damore were withdrawn prior to any preliminary hearing.

## **PUBLICATION OF THE ARRESTS**

41. On or about May 3, 2019, Defendant, John Adams held a public news conference, in which he described the charges pending against Plaintiffs, Smith and Damore, specifically that they accepted \$5,000 to post a bail-bond, despite (i) Plaintiff, Bail Shop, LLC not possessing a license; and, (ii) Plaintiffs, Smith and Damore not possessing a license. *See Exhibit G.*

42. Defendant, John Adams further defamed Plaintiffs, Smith, Damore, and Bail Shop, LLC by stating that

- a. "This is despicable behavior."
- b. "This is clearly fraudulent. This is clearly another deceitful, deceptive business"

*See Exhibit G.*

## **FRAUDULENT INFORMATION IN AFFIDAVIT**

43. On or about May 3, 2019, at approximately 12:30pm, Plaintiff, Damore, via telephone, contacted Non-Party, David Sweitzer, who is the Division Chief of Pennsylvania Insurance Department Bureau of Licensing and Enforcement.

44. During the telephone conversation, Non-Party, David Sweitzer confirmed that he had spoken with an officer from the Muhlenberg Township Police Department prior to the aforementioned warrants being issued. However, Non-Party, David Sweitzer informed Plaintiff, Damore that Non-Party, David Sweitzer had specifically told the officer the following information:

- a. Plaintiff, Damore was appropriately licensed to operate a bail-bonds business in the Commonwealth of Pennsylvania, and that Plaintiff, Damore's license was not at the time, nor at any time, suspended; and,

b. Plaintiff, Bail Shop, LLC was appropriately licensed to operate as a bail-bond business in the Commonwealth of Pennsylvania, and that Plaintiff, Bail Shop, LLC's license was not at the time, nor at any time, suspended.

45. Upon information and belief, including Defendant, Pollock's Affidavits of Probable Cause, the Muhlenberg Township Police Department officer who spoke to Non-Party, David Sweitzer was Defendant, Pollock.

46. Defendant, Pollock had actual knowledge, prior to completing his Affidavits of Probable Cause that:

- a. Plaintiff, Damore was appropriately licensed to operate a bail-bonds business in the Commonwealth of Pennsylvania, and that Plaintiff, Damore's license was not at the time, nor at any time, suspended; and,
- b. Plaintiff, Bail Shop, LLC was appropriately licensed to operate as a bail-bond business in the Commonwealth of Pennsylvania, and that Plaintiff, Bail Shop, LLC's license was not at the time, nor at any time, suspended.

47. Defendant, Pollock intentionally and knowingly lied under oath in his Affidavits of Probable Cause that Non-Party, David Sweitzer had confirmed that Plaintiffs, Damore and Bail Shop, LLC's licenses had been suspended by the Pennsylvania Insurance Department. *See Exhibit A, Page 5 and Exhibit B, Page 5.* In fact, Defendant, Pollock knew that Non-Party, David Sweitzer had conveyed the opposite.

#### **PUBLICATION OF THE WITHDRAWL OF CHARGES**

48. On or about May 9, 2019, Defendant, John Adams held a public news conference, in which he stated that the charges against Plaintiffs, Smith and Damore were withdrawn.

49. However, rather than admitting that the charges were based on incorrect information, Defendant, John Adams stated that law enforcement has “insufficient evidence” to proceed in the case, but that charged could be refiled in the future. *See Exhibit H.*

### **RESULTING HARM**

50. Defendant, Pollock intentionally and knowingly lied under oath in his Affidavits of Probable Cause that Non-Party, David Sweitzer had confirmed that Plaintiffs, Damore and Bail Shop, LLC’s licenses had been suspended by the Pennsylvania Insurance Department. *See Exhibit A, Page 5 and Exhibit B, Page 5.*

51. At no time was there probable cause to arrest Plaintiffs, Smith and Damore but for the fraudulent, incorrect, and malicious information created by Defendant, Pollock in order to wrongfully arrest and falsely imprison Plaintiffs, Smith and Damore.

52. As a result, Defendant, Pollock caused Plaintiffs, Smith and Damore to suffer a wrongful arrest and malicious prosecution.

53. As a result, Defendant, Pollock caused Plaintiff, Smith to suffer false imprisonment.

54. As a result, Defendant, Bail Shop, LLC has lost significant revenue and profit.

### **INVESTIGATING DISTRICT ATTORNEY**

55. There exists long-standing professional animosity between Defendant, Adams and Plaintiff, Smith due to Plaintiff, Smith refusal to refer clients to Defendant, Adams prior to Defendant, Adams becoming an elected district attorney.

56. Pursuant to Federal Rule of Civil Procedure 11, it is believed and therefore averred that the following allegations will likely have evidentiary support after a reasonable opportunity for discovery:

- a. Defendant, John Adams acted in an investigating, not prosecutorial manner, in directing Defendant, Pollock to investigate Plaintiffs, Smith and Damore.
- b. Defendant, John Adams had actual knowledge that Plaintiffs, Damore and Bail Shop, LLC were appropriately licensed to operate a bail-bond business in the Commonwealth of Pennsylvania.
- c. Despite the foregoing, Defendant, John Adams directed Defendant, Pollock to charge Plaintiffs, Smith and Damore.

#### **IV. COUNTS OF ACTION**

##### **COUNT I** **False Arrest**

Pursuant to 42 U.S. Code § 1983, et seq., & Pennsylvania State Law  
*Plaintiffs, Smith & Damore v. Defendants, Pollock & Adams*

57. Plaintiffs incorporate the foregoing paragraphs as if set forth at length herein.
58. Defendant, Pollock drafted and submitted the Police Criminal Complaints and Affidavits of Probable Cause against Plaintiffs, Smith and Damore to Non-Party, Magistrate District Judge Patton.
59. In drafting the Affidavits of Probable Cause, Defendant, Pollock knowingly and intentionally lied by including the following false information in his Affidavits of Probable Cause:

- a. Despite knowledge that Plaintiff, Damore was appropriately licensed to operate a bail-bonds business in the Commonwealth of Pennsylvania, falsely stating that Plaintiff, Damore's state license had been revoked; and,
- b. Despite knowledge that Plaintiff, Bail Shop, LLC was appropriately licensed to operate as a bail-bond business in the Commonwealth of Pennsylvania, falsely stating that Plaintiff, Bail Shop, LLC's state license had been revoked.

60. At all material times, Defendant, Pollock knew that probable cause did not exist for the arrest of Plaintiffs, Smith and Damore and intentionally and knowingly created false information in his Affidavits of Probable Cause in order to falsely create grounds for an arrest warrant.

61. A reasonable officer would have known, based on the information known to Defendant, Pollock at the time he drafted the fraudulent Affidavits of Probable Cause that there was not probable cause for the arrest of Plaintiffs, Smith and Damore.

62. Defendant, Pollock maliciously created false information in his fraudulent Affidavits of Probable Cause in order to effectuate the arrest of Plaintiffs, Smith and Damore.

63. Depending upon the false information submitted in Defendant, Pollock's fraudulent Affidavits of Probable Cause, Non-Party, Magistrate District Judge Patton issued arrest warrants for Plaintiffs, Smith and Damore.

64. On May 2, 2019, Plaintiffs, Smith and Damore were arrested as a result of the Police Criminal Complaints and Affidavits of Probable Cause submitted to Non-Party, Magistrate District Judge Patton.

65. As a result of the foregoing, Plaintiffs, Smith and Damore have suffered actual harm, including being subjected to a false arrest, as well as financial and emotional harm.

**COUNT II**  
**False Imprisonment**

Pursuant to 42 U.S. Code § 1983, et seq., & Pennsylvania State Law  
*Plaintiffs, Smith v. Defendants, Pollock & Adams*

66. Plaintiffs incorporate the foregoing paragraphs as if set forth at length herein.

67. Defendant, Pollock drafted and submitted the Police Criminal Complaint and Affidavit of Probable Cause against Plaintiff, Smith to Non-Party, Magistrate District Judge Patton.

68. In drafting the Affidavit of Probable Cause, Defendant, Pollock knowingly and intentionally lied by including the following false information in his Affidavits of Probable Cause:

- a. Despite knowledge that Plaintiff, Damore was appropriately licensed to operate a bail-bonds business in the Commonwealth of Pennsylvania, falsely stating that Plaintiff, Damore's state license had been revoked; and,
- b. Despite knowledge that Plaintiff, Bail Shop, LLC was appropriately licensed to operate as a bail-bond business in the Commonwealth of Pennsylvania, falsely stating that Plaintiff, Bail Shop, LLC's state license had been revoked.

69. At all material times, Defendant, Pollock knew that probable cause did not exist for the arrest of Plaintiff, Smith and intentionally and knowingly created false information in his Affidavit of Probable Cause in order to falsely create grounds for an arrest warrant.

70. A reasonable officer would have known, based on the information known to Defendant, Pollock at the time he drafted the fraudulent Affidavits of Probable Cause that there was not probable cause for the arrest of Plaintiff, Smith.

71. Defendant, Pollock maliciously created false information in his fraudulent Affidavit of Probable Cause in order to effectuate the arrest of Plaintiff, Smith.

72. Depending upon the false information submitted in Defendant, Pollock's fraudulent Affidavit of Probable Cause, Non-Party, Magistrate District Judge Patton issued an arrest warrant for Plaintiff, Smith.

73. On May 2, 2019, Plaintiff, Smith was arrested as a result of the Police Criminal Complaint and Affidavit of Probable Cause submitted to Non-Party, Magistrate District Judge Patton.

74. As a result of the foregoing, Plaintiff, Smith was imprisoned unlawfully.
75. Plaintiff, Smith suffered actual harm, including being subjected to a unlawful imprisonment, as well as financial and emotional harm.

**COUNT III**  
**Malicious Prosecution**

Pursuant to 42 U.S. Code § 1983, et seq., & Pennsylvania State Law  
*Plaintiffs, Smith & Damore v. Defendants, Pollock & Adams*

76. Plaintiffs incorporate the foregoing paragraphs as if set forth at length herein.
77. Defendant, Pollock drafted and submitted the Police Criminal Complaints and Affidavits of Probable Cause against Plaintiffs, Smith and Damore to Non-Party, Magistrate District Judge Patton, thereby initiating criminal proceedings against Plaintiffs, Smith and Damore.
78. In drafting the Affidavits of Probable Cause, Defendant, Pollock knowingly and intentionally lied by including the following false information in his Affidavits of Probable Cause:
  - a. Despite knowledge that Plaintiff, Damore was appropriately licensed to operate a bail-bonds business in the Commonwealth of Pennsylvania, falsely stating that Plaintiff, Damore's state license had been revoked; and,
  - b. Despite knowledge that Plaintiff, Bail Shop, LLC was appropriately licensed to operate as a bail-bond business in the Commonwealth of Pennsylvania, falsely stating that Plaintiff, Bail Shop, LLC's state license had been revoked.

79. At all material times, Defendant, Pollock knew that probable cause did not exist for the arrest of Plaintiffs, Smith and Damore and intentionally and knowingly created false information in his Affidavits of Probable Cause in order to falsely create grounds for an arrest warrant.

80. A reasonable officer would have known, based on the information known to Defendant, Pollock at the time he drafted the fraudulent Affidavits of Probable Cause that there was not probable cause for the arrest of Plaintiffs, Smith and Damore.

81. Defendant, Pollock maliciously created false information in his fraudulent Affidavits of Probable Cause in order to effectuate the arrest of Plaintiffs, Smith and Damore.

82. At all material times, there was no probable cause for the prosecution of Plaintiffs, Smith and Damore.

83. Depending upon the false information submitted in Defendant, Pollock's fraudulent Affidavits of Probable Cause, Non-Party, Magistrate District Judge Patton issued arrest warrants for Plaintiffs, Smith and Damore.

84. On May 2, 2019, Plaintiffs, Smith and Damore were arrested as a result of the Police Criminal Complaints and Affidavits of Probable Cause submitted to Non-Party, Magistrate District Judge Patton, constituting a deprivation of liberty consistent with the concept of seizure.

85. On or about May 8, 2019, the charges against Plaintiffs, Smith and Damore were withdrawn prior to any preliminary hearing, constituting a termination of the criminal proceedings in favor of Plaintiffs.

86. At all material times, Defendants acted for a purpose other than bringing Plaintiffs, Smith and Damore to justice as Defendants had actual knowledge that Plaintiffs, Smith and Damore had not committed any wrongdoing.

87. As a result of the foregoing, Plaintiffs, Smith and Damore have suffered actual harm, including being subjected to a malicious prosecution, as well as financial and emotional harm.

**COUNT IV**  
***Monell Liability***

Pursuant to 42 U.S. Code § 1983, et seq.

*Plaintiffs, Smith & Damore v. Defendant, Muhlenberg Township*

88. Plaintiffs incorporate the foregoing paragraphs as if set forth at length herein.
89. Pursuant to Federal Rule of Civil Procedure 11, it is believed and therefore averred that the following allegations will likely have evidentiary support after a reasonable opportunity for discovery:
  - a. Prior to the events described herein, Defendant, Muhlenberg Township developed and maintained policies, practices, procedures and customs exhibiting deliberate indifference to the Constitutional rights of persons, which caused violations of Plaintiffs, Smith and Damore's constitutional and other rights; and,
  - b. The above described acts or omissions by Defendant, Pollock demonstrated a deliberate indifference to the rights of citizens, such as Plaintiffs, Smith and Damore, and were the cause of the violations of Plaintiffs, Smith and Damore's rights as set forth herein.
90. As a result of the foregoing, Plaintiffs, Smith and Damore have suffered actual harm, including being subjected to false arrest, false imprisonment, and/or malicious prosecution, as well as financial and emotional harm.

**COUNT V**  
***Monell Liability***

Pursuant to 42 U.S. Code § 1983, et seq.

*Plaintiffs, Smith & Damore v. Defendants, Berks County*

91. Plaintiffs incorporate the foregoing paragraphs as if set forth at length herein.

92. Pursuant to Federal Rule of Civil Procedure 11, it is believed and therefore averred that the following allegations will likely have evidentiary support after a reasonable opportunity for discovery:

- a. Prior to the events described herein, Defendant, Berks County developed and maintained policies, practices, procedures and customs exhibiting deliberate indifference to the Constitutional rights of persons, which caused violations of Plaintiffs, Smith and Damore's constitutional and other rights; and,
- b. The above described acts or omissions by Defendant, Adams demonstrated a deliberate indifference to the rights of citizens, such as Plaintiffs, Smith and Damore, and were the cause of the violations of Plaintiffs, Smith and Damore's rights as set forth herein.

93. As a result of the foregoing, Plaintiffs, Smith and Damore have suffered actual harm, including being subjected to false arrest, false imprisonment, and/or malicious prosecution, as well as financial and emotional harm.

**COUNT VI**  
**Tortious Interference with Business Relations**  
*Plaintiff, Bail Shop, LLC v. Defendants*

94. Plaintiffs incorporate the foregoing paragraphs as if set forth at length herein.

95. Defendants committed the foregoing acts with the purpose and/or intent to cause harm to Plaintiff, Bail Shop, LLC, specifically to interfere with current and prospective contractual clients.

96. Defendants did not possess any privilege or justification to commit the foregoing acts or to interfere with Plaintiff, Bail Shop, LLC's business relations.

97. Through Defendants forgoing acts, Defendants caused Plaintiff, Bail Shop, LLC to suffer significant financial harm, including the loss of revenue and profits.

**COUNT VII**  
**Defamation *Per Se***

*Plaintiffs v. Defendant, Adams (Individual Capacity Only)*

98. Plaintiffs incorporate the foregoing paragraphs as if set forth at length herein.
99. Defendant, Adams' statements concerning Plaintiffs, Smith, Damore, and Bail Shop, LLC constitute defamation *per se* as the statements contend that Plaintiffs engaged in criminal actions.
100. Defendant, Adams publicized the statements to multiple news outlets, which carried the statements to additional third parties.
101. At all material times, Defendant, Adams' statements concerned Plaintiffs; were understood to concern Plaintiffs; and were understood to be defamatory in nature.
102. As a result of Defendant, Adams' statements, Plaintiffs have suffered actual harm, including financial loss and reputational loss and emotional distress.

**WHEREFORE**, Plaintiffs, by and through their undersigned counsel, respectfully requests this Honorable Court enter judgment in their favor and against Defendants, individually, jointly and severally, in an amount in excess of seventy-five thousand dollars (\$75,000), plus such other and further relief as this Honorable Court deems necessary and just, including:

- a. Statutory Damages;
- b. Punitive Damages;
- c. Compensatory Damages, including actual damages for financial and physical injuries, including but not limited to wage loss and loss of earning capacity, and emotional distress;
- d. Attorneys' fees and expenses, costs of suit, and equitable relief.
- e. Injunctive relief, including educational training.

**WEISBERG LAW**

/s/ Matthew B. Weisberg

Matthew B. Weisberg  
Attorney Id. No. 85570  
L. Anthony DiJiacomo, III  
Attorney Id. No.: 321356  
7 South Morton Ave.  
Morton, PA 19070  
610-690-0801  
Fax: 610-690-0880

Respectfully Submitted,

**SCHAFKOPE LAW, LLC**

/s/ Gary Schafkopf  
Gary Schafkopf  
Attorney ID No. 83362  
11 Bala Ave  
Bala Cynwyd, PA 19004  
610-664-5200 Ext 104  
Fax: 888-283-1334

*Attorneys for Plaintiff*



*EGS*UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

19

5343

## DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: \_\_\_\_\_

Berks County, PA

Address of Defendant: \_\_\_\_\_

210 George Street, Reading, PA 19605

Place of Accident, Incident or Transaction: \_\_\_\_\_

Berks County, PA

## RELATED CASE, IF ANY:

Case Number: \_\_\_\_\_ Judge: \_\_\_\_\_ Date Terminated: \_\_\_\_\_

Civil cases are deemed related when Yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? Yes  No
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? Yes  No
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? Yes  No
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? Yes  No

I certify that, to my knowledge, the within case  is /  is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 11/11/19

Must sign here

85570

Attorney I.D. # (if applicable)

## CIVIL: (Place a ✓ in one category only)

## A. Federal Question Cases:

- 1. Indemnity Contract, Marine Contract, and All Other Contracts
- 2. FELA
- 3. Jones Act-Personal Injury
- 4. Antitrust
- 5. Patent
- 6. Labor-Management Relations
- 7. Civil Rights
- 8. Habeas Corpus
- 9. Securities Act(s) Cases
- 10. Social Security Review Cases
- 11. All other Federal Question Cases  
(Please specify): \_\_\_\_\_

## B. Diversity Jurisdiction Cases:

- 1. Insurance Contract and Other Contracts
- 2. Airplane Personal Injury
- 3. Assault, Defamation
- 4. Marine Personal Injury
- 5. Motor Vehicle Personal Injury
- 6. Other Personal Injury (Please specify): \_\_\_\_\_
- 7. Products Liability
- 8. Products Liability – Asbestos
- 9. All other Diversity Cases  
(Please specify): \_\_\_\_\_

## ARBITRATION CERTIFICATION

(The effect of this certification is to remove the case from eligibility for arbitration.)

I, Matthew B. Weisberg, Esquire, counsel of record or pro se plaintiff, do hereby certify:



Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs.



Relief other than monetary damages is sought.

DATE: 11/11/2019

Sign here if applicable

NOV - 7 2019

Attorney-at-Law / Pro Se Plaintiff

85570

Attorney I.D. # (if applicable)

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

E65

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**CASE MANAGEMENT TRACK DESIGNATION FORM**

Smith, et al.

v.

Pollock, et al.

CIVIL ACTION

19

5343

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

**SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:**

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ( )
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ( )
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ( )
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ( )
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.)
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (x)

11/5/2019

Date610-690-0801TelephoneAttorney-at-law610-690-0880FAX NumberPlaintiffsAttorney formweisberg@weisberglawoffices.comE-Mail Address

(Civ. 660) 10/02

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